



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4
ATLANTA FEDERAL CENTER
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ATLANTA, GEORGIA 30303-8960

FEB 19 2020

The Honorable William Harris
Chief of the Catawba Indian Nation
996 Avenue of the Nations
Rock Hill, South Carolina 29730

Subject: Offer of Consultation and Coordination on the Environmental Protection Agency's Action on
the State of South Carolina's Draft 2018 Section 303(d) List

Dear Chief Harris:

The U.S. Environmental Protection Agency is offering consultation and coordination with the Catawba Indian Nation on the EPA's review and upcoming action to approve or disapprove the state of South Carolina's 2018 Clean Water Act (CWA) Section 303(d) List.

Section 303(d)(1) of the CWA, 33 U.S.C. § 1311(d)(1), requires states to identify those waters within their jurisdiction for which effluent limitations required by Sections 301 (A) and (B) of the CWA, 33 U.S.C. § 1311(b)(1)(A) and (B), are not stringent enough to implement any applicable water quality standards, to establish a priority ranking for such waters and to submit a listing of such waters to the EPA. This list is often referred to as the "303(d) List" or the "impaired waters list."

On November 5, 2018, the state of South Carolina, through the South Carolina Department of Health and Environmental Control, publicly noticed its 2018 303(d) List. After the initial public comment period, calculations for metals assessments were updated and on January 27, 2020 the State publicly noticed an addendum to the draft 2018 303(d) List. The EPA is reviewing this draft document in anticipation of its official submittal and would like to offer consultation with the Tribe at this stage to allow ample opportunity for coordination and collaboration. Once the State officially submits the 303(d) List, the action triggers the EPA's mandatory duty under Section 303(d) of the CWA to review the State's 303(d) List for consistency with the requirements of the CWA and to either approve or disapprove it in 30 days.

The State's 303(d) List and the EPA's decision on this list will apply to waters in the state of South Carolina and will not apply to waters in Indian country. Nonetheless, because some of the State waters are adjacent to tribal waters, tribal resources could be impacted by this action. As such, the EPA would like to ensure that input from the Catawba Indian Nation is considered prior to a final Agency action on impaired water listings for the state of South Carolina.

South Carolina's draft 303(d) List package includes the following components, directly or by reference: 2018 303(d) List; the 2018 Water Quality Assessment Methodology; the list of approved Total Daily Maximum Loads (TMDLs). The draft submittal also includes a Prioritization Framework, based on EPA's Long-Term Vision for Assessment, Restoration, and Protection under the Clean Water Act Section 303(d) Program available at <https://www.epa.gov/tmdl/new-vision-implementing-cwa-section-303d-impaired-waters-program-responsibilities>.

Enclosed with this letter is a portable storage device with a copy of South Carolina's submittal, which includes the following components: draft 2018 State of South Carolina Integrated Report, addendum to the draft 2018 Integrated Report, and technical support document "A Review of Lead in Surface Waters". Also included is information regarding listing changes in waters upstream of and adjacent to the Catawba Indian Nation. Additional information on DHEC's program can be found under the heading of "South Carolina 303(d) List of Impaired Waters & TMDLs at <https://www.scdhec.gov/south-carolina-303d-list-impaired-waters-tmdls>.

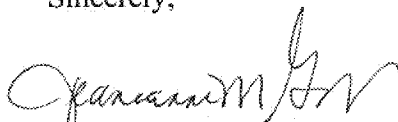
With this letter, the EPA is formally initiating a process to offer consultation to the Catawba Indian Nation. This consultation and coordination process will be conducted in accordance with the EPA Policy on Consultation and Coordination with Indian Tribes at <https://www.epa.gov/sites/production/files/2013-08/documents/cons-and-coord-with-indian-tribes-policy.pdf>. The EPA invites you and your designated consultation representative(s) to participate in this process. The timeline for the consultation and coordination process begins with this letter. In the event the EPA has not received a response from the Tribe after 30 days, the EPA will interpret the lack of response as a declination of this offer to consult on this project.

Once the EPA receives the State's official 2018 303(d) List submittal, we will contact the Tribe to share the final package. The official submittal will include a response to public comments and any changes that the State may have made to the draft document after its publication. We will continue to keep the Tribe apprised of this matter and will consider later requests for consultation to the extent that meaningful consultation can occur.

The official EPA contact person for this consultation and coordination process is Mr. Joseph Pohnan at (404) 562-9731, or pohnan.joseph@epa.gov. In addition, Ms. Eve Zimmerman, the Tribal Water Quality Standards Coordinator, is available to assist Mr. Pohnan. The EPA offers to consult with you by phone. At your discretion, please contact Mr. Pohnan to schedule a conference call as soon as possible. During this call, the EPA can provide information about our upcoming action and would be happy to obtain your input for consideration by the Agency. The EPA personnel will be available for follow-up discussions should you desire additional information.

If you have any questions regarding this letter, please do not hesitate to call me at (404) 562-9345 or have a member of your staff contact Mr. Pohnan at (404) 562-9731.

Sincerely,


Jeaneanne M. Gettle, Director
Water Division

Enclosure

cc: Mr. Scott Hansen, Director
Environmental Services